

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

TRENTON D. JOHNSON,

Plaintiff,

v.

EXIDE TECHNOLOGIES, INC.,

Defendant.

§
§
§
§
§
§
§
§

Case No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Exide Technologies, Inc. (“Exide”) hereby gives notice of the removal of this cause of action to the United States District Court for the Western District of Missouri. In support of its Notice of Removal, Exide states as follows:

PROCEDURAL STATUS OF THE CASE

1. On or about February 7, 2020, plaintiff Trenton Johnson (“Johnson” or “Plaintiff”) commenced this action by filing a Petition for Damages in the Circuit Court of Platte County, Missouri. The suit is numbered 20AE-CC00038.
2. The Circuit Court of Platte County, Missouri issued its Summons on February 10, 2020.
3. Exide was served by process server with the Summons and Petition on February 20, 2020.
4. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Western District of Missouri.

BASIS FOR DIVERSITY JURISDICTION

5. Plaintiff is a resident of the State of Missouri. (*See*, Petition attached hereto as Exhibit A, Petition, ¶ 1).

6. Exide is a Delaware corporation with its principal place of business in Milton, Georgia. (*Id.* at ¶ 2).

7. As such, complete diversity of citizenship exists between Plaintiff and Exide.

8. Plaintiff's Petition reasonably can be read as seeking damages in excess of \$75,000.

9. In his Petition, Plaintiff alleges that he fell in a vat of molten slag which caused him to suffer burns and sustain serious injuries. (*Id.* at 16).

10. Specifically, Plaintiff claims that he suffered:

“serious and debilitating injuries, including but not limited to injury to his head, neck, back, shoulders, and internal organs, together with pain and suffering, mental anguish, medical costs, lost wages, and loss of enjoyment of life, said injuries being permanent, progressive and continuous in nature.

(*Id.* at ¶ 30).

11. Based on these allegations, a fact finder could legally conclude that damages are in excess of \$75,000. *See Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir. 2002).

12. While Defendant is not conceding that his damages will exceed \$75,000, it is evident that Plaintiff will seek an amount in excess of \$75,000. Therefore, the amount in controversy requirement is satisfied.

13. Pursuant to the provision of 28 U.S.C. § 1446(a), the United States District Court for the Western District of Missouri is the federal district court for the district embracing the place where the state court suit is pending.

14. This Court has original jurisdiction of this matter on the basis of diversity, and removal to this Court is proper. 28 U.S.C. § 1332.

PROPRIETY OF REMOVAL

15. This Notice of Removal is timely because it is filed within thirty (30) days of Exide's receipt of the Petition in accordance with 28 U.S.C. § 1446(b).

16. This Court has original jurisdiction of this matter under 28 U.S.C. § 1332(a).

17. This matter is properly removable under 28 U.S.C. § 1441.

18. Removal of this matter is not barred by 28 U.S.C. § 1445.

19. Pursuant to 28 U.S.C. § 1446(a), Exide has attached hereto as Exhibit A copies of all process, pleadings, and orders served upon Exide Defendants in this matter.

20. Pursuant to 28 U.S.C. § 1446(a) and (d), Exide will file a copy of this Notice of Removal with the Circuit Court of Platte County, Missouri; will provide prompt notice to all adverse parties; and will file proof of service of all notices and filings with the Clerk of the United States District Court for the Western District of Missouri.

21. The filing of this notice of removal is expressly made subject to and without waiving any defense Exide may have regarding Plaintiff's claims against it, and Exide does hereby reserve all rights, defenses, allegations, claims, causes of action, and demands relating directly to Plaintiff's claims or arising therefrom.

REQUEST FOR HEARING & JURISDICTIONAL DISCOVERY

22. If Plaintiff contests this removal, Exide requests:

A. A hearing regarding this Court's jurisdiction over, and the propriety of removal of this matter;

B. The opportunity to present evidence demonstrating the existence of diversity jurisdiction and the propriety of removal; and

C. Leave to conduct limited discovery related to those issues.

WHEREFORE, Defendant Exide Technologies, Inc. removes the above-captioned action from the Circuit Court of Platte County, Missouri to the United States District Court for the Western District of Missouri.

Respectfully submitted,

DYSART TAYLOR COTTER
MCMONIGLE & MONTEMORE, P.C.

/s/ Michael J. Judy

Lee B. Brumitt MO# 33881

Michael J. Judy MO# 58691

4420 Madison Avenue, Suite 200

Kansas City, Missouri 64111

(816) 931-2700 Fax: (816) 931-7377

lbrumitt@dysarttaylor.com

mjudy@dysarttaylor.com

ATTORNEYS FOR DEFENDANT
EXIDE TECHNOLOGIES, INC.

CERTIFICATE OF SERVICE

This is to certify that on March 18, 2020, a true copy of the foregoing document was electronically filed with the Court using the CM/ECF system, and served via electronic mail upon counsel of record as follows:

jamesthompson@etkclaw.com

evanerem@etkclaw.com

James T. Thompson

Elizabeth L. VanErem

Edelman & Thompson, LLC

3100 Broadway, Suite 1400

Kansas City, MO 64111

/s/ Michael J. Judy

Michael J. Judy